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IN THE

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S):

Neal Manowitz

APP. NO.:

09/782,067

FILED:

February 12, 2001

TITLE:

Methods And Systems For Exchanging Content

(as amended)

Between A Camera And A Selected Remote Storage Device

EXAMINER:

Jerabek, K.

ART UNIT:

2612

ATTY DKT NO:

50P3840.01

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8/10/06

Gregory J. Koerner

APPEAL BRIEF

Mail Stop Appeal Brief-Patents Commissioner for Patents P.O Box 1450 Alexandria, Virginia 22313-1450

Dear Sir:

The following Appeal Brief is submitted in an appeal from the Final Office Action of March 16, 2006 in the above-referenced Patent Application.

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(1) Real parties in interest

The real parties in interest in the above-referenced patent application are Sony Corporation, a Japanese corporation with offices in Tokyo, Japan, and Sony Electronics Inc., a Delaware corporation with offices in New Jersey.

(2) Related appeals and interferences

To the present knowledge of Appellants' legal representative, there are currently no related appeals or interference proceedings in progress which will directly affect, or be directly affected by, or have a bearing on the Board's decision in the present Appeal.

(3) Status of Claims

Claims 1-4 and 9-11 stand rejected under 35 U.S.C. § 102(e). Claims 5-8 and 12-19 stand rejected under 35 U.S.C. § 103(a). The rejections of claims 1-4 and 9-11, and the rejections of claims 5-8 and 12-19 are being appealed.

(4) Status of Amendments

On March 16, 2006, a Final Office Action in the present Application was mailed to Applicants' Representative. In response, on June 13, 2006, the Applicants filed a Notice of Appeal in the present Application.

(5) Summary of Claimed Subject Matter

In accordance with one embodiment of the present invention, a digital camera system includes a digital camera 220, a predetermined remote location 250, a camera distributor 210, and an advertiser 270. The digital camera 220 is configured to exclusively and automatically connect to the predetermined remote location 250 to upload image data to the predetermined remote location 250, and to download advertising data from the predetermined remote location 250.

The digital camera 220 is also configured to display the advertising data, and utilizes the predetermined remote location 250 as the sole means for distributing the image data. The advertiser 270 compensates the camera distributor 210 and the owner of the predetermined remote location 250 based upon the advertising data which is viewed by the camera user. In turn, the camera distributor 210 is able to reduce the cost of the digital camera 220 to the camera user.

Independent claim 1 recites a "digital camera" that communicates "exclusively" with a "remote storage location." The foregoing subject matter is discussed in the Specification, for example, at page 6, lines 4-14 (FIG. 2). Independent claim 5 recites an "exclusive" type of "uploading" and "downloading" between a "digital camera" and a "remote location." The foregoing subject matter is discussed in the Specification, for example, at page 6, lines 4-14 (FIG. 2). Claim 5 further recites "said digital camera being incapable of communicating with any external device other than said exclusive

and remote location." The foregoing subject matter is discussed in the Specification, for example, at page 6, lines 12-15. Independent claim 9 recites an "interface" that bi-directionally transfers information between a "buffer" and an "exclusive and predetermined remote location." The foregoing subject matter is discussed in the Specification, for example, at page 6, lines 4-14.

(6) Grounds Of Rejection To Be Reviewed Upon Appeal

- I. Claims 1-4 and 9-11 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. US 2002/0041329 to Steinberg.
- II. Claims 5-8 and 12-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No US 2002/0041329 to Steinberg in view of U.S. Patent No. 6,442,529 to Krishnan et al.

(7) Argument

I. <u>35 U.S.C. § 102(e)</u>

On page 10 of the Final Office Action, the Examiner rejects claims 1-4 and 9-11 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Publication No. US 2002/0041329 to Steinberg (hereafter <u>Steinberg</u>). The Applicants respectfully traverse the rejections of claims 1-4 and 9-11 for at least the following reasons.

It is established that, "for a prior art reference to anticipate in terms of 35 U.S.C. §102, every element of the claimed invention must be *identically*

shown in a single reference" (emphasis added). Diversitech Corp. v. Century Steps, Inc., 7 USPQ2d 1315, 1317 (CAFC 1988). The Applicants submit that Steinberg fails to identically teach every element of the claims and therefore does not anticipate the present invention.

(A). <u>Claims 1, 3, and 4</u>

Regarding the Examiner's rejection of independent claim 1, Applicants submit that claim 1 recites limitations that are not taught or suggested either by the cited reference, or by the Examiner's citations thereto. For example, claim 1 explicitly recites "a remote storage device for receiving image data" and "a digital camera configured to send the image data exclusively to the remote storage device and to receive advertising data exclusively from the remote storage device."

Steinberg essentially teaches a "messaging center" that sends various types of messages to a camera for display to a camera user (see Abstract). However, Steinberg also teaches that the camera can interface with "a programmable card" to exchange information "from the network through a computer 40 connected to the network by cables" (see paragraph 0033).

Applicants submit that the camera of <u>Steinberg</u> may also readily receive information from computer 40 that was obtained from sources other than the messaging center. In addition, the camera of <u>Steinberg</u> may also receive information from transceiver 18 that is transmitted to the "network" from

sources other than the messaging center.

Therefore, since the camera of <u>Steinberg</u> clearly communicates with computer 40, Applicants submit that <u>Steinberg</u> fails to disclose "a digital camera configured to send the image data <u>exclusively</u> to the remote storage device and to receive advertising data <u>exclusively</u> from the remote storage device," as claimed by Applicants.

Furthermore, on page 6 of the Office Action, the Examiner cites page 3, paragraph 39, of Steinberg, and states that "[t]he Examiner is reading the quantity of images and type of images as image data." Applicants respectfully disagree with this interpretation of Steinberg, and submit that Steinberg fails to teach "a digital camera configured to send the <u>image data</u> exclusively to the remote storage device," as claimed by Applicants.

In Applicants' Specification, on page 7, lines 8-12, Applicants clearly define the specific meaning of their claimed "image data." In particular, Applicants state that "[t]he sensor 310 converts analog data into electronic image data. The sensor 310 can utilize technologies such as charge couple devices, CMOS sensors, and the like. In this embodiment, the storage device 320 stores the image data from the sensor 310." Applicants submit that Steinberg nowhere states that actual image data is uploaded from the camera to the messaging center.

Applicants submit that "other information such as the quantity of images taken by a camera, the type of images etc." is not the same as the actual

image data, as clearly defined by Applicants' Specification. For at least the foregoing reasons, Applicants submit that <u>Steinberg</u> fails to teach uploading "<u>image data from a digital camera solely to an exclusive</u> and predetermined remote location", as claimed by Applicants.

Regarding the Examiner's rejection of dependent claims 3 and 4, for at least the reasons that these claims are dependent from an independent claim whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the independent claim, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 3 and 4, so that these claims may issue in a timely manner.

(B). Dependent Claim 2

The Examiner cites page 3, paragraph 39, of <u>Steinberg</u> in support of the rejection of claim 2. The cited passage of <u>Steinberg</u> is limited to discussing "other information" such as a "quantity of images and type of images." In contrast, claim 2 explicitly recites "a sensor for forming the <u>image data</u>" (emphasis added). Applicants therefore are claiming the actual raw "image data" created by the "sensor." Applicants respectfully submit that <u>Steinberg</u> nowhere discloses transferring actual "image data" created by a "sensor," as claimed by Applicants. For at least the foregoing reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 2.

(C). <u>Claims 9 and 11</u>

Regarding the Examiner's rejection of independent claim 9, Applicants submit that claim 9 recites limitations that are not taught or suggested either by the cited reference, or by the Examiner's citations thereto. For example, claim 9 explicitly recites "an interface connected to the buffer configured to upload the image data from the digital camera to an exclusive and predetermined remote location and to download the advertising data from the exclusive and predetermined remote location to the digital camera."

As discussed above in conjunction with independent claim 1, Steinberg teaches a camera that can interface with "a programmable card" to exchange information "from the network through a computer 40 connected to the network by cables" (see paragraph 0033). Applicants submit that the camera of Steinberg may also readily receive information from computer 40 that was obtained from sources other than the messaging center.

In addition, the camera of <u>Steinberg</u> may also receive information from transceiver 18 that is transmitted to the "network" from sources other than the messaging center. Therefore, since the camera of <u>Steinberg</u> clearly communicates with computer 40, Applicants submit that <u>Steinberg</u> fails to disclose bi-directionally exchanging information between a camera and "an <u>exclusive</u> and predetermined remote location," as claimed by Applicants.

Furthermore, on page 8 of the Office Action, the Examiner cites page 3,

paragraph 39, of <u>Steinberg</u>, and states that "[t]he Examiner is reading the quantity of images and type of images as image data." Applicants respectfully disagree with this interpretation of <u>Steinberg</u>, and submit that Steinberg fails to teach "an interface connected to the buffer configured to upload the <u>image data</u> from the digital camera," as claimed by Applicants.

As discussed above in conjunction with independent claim 1, Applicants' Specification, on page 7, lines 8-12, clearly defines the specific meaning of their claimed "image data." In particular, Applicants state that "[t]he sensor 310 converts analog data into electronic image data. The sensor 310 can utilize technologies such as charge couple devices, CMOS sensors, and the like. In this embodiment, the storage device 320 stores the image data from the sensor 310." Applicants submit that Steinberg nowhere states that actual image data is uploaded from the camera to the messaging center.

Applicants submit that "other information such as the quantity of images taken by a camera, the type of images etc." is not the same as the actual image data, as clearly defined by Applicants' Specification. For at least the foregoing reasons, Applicants submit that <u>Steinberg</u> fails to teach uploading "<u>image data</u> from the digital camera to an <u>exclusive</u> and predetermined remote location," as claimed by Applicants.

Regarding the Examiner's rejection of dependent claim 11, for at least the reasons that this claim is dependent from an independent claim whose limitations are not identically taught or suggested, the limitations of dependent

claim 11, when viewed through or in combination with the limitations of the independent claim, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration of dependent claim 11.

(D). <u>Dependent Claim 10</u>

As discussed above in conjunction with dependent claim 2, Steinberg is limited to providing "other information" such as a "quantity of images and type of images." In contrast, claim 11 explicitly recites "a sensor... for forming the image data" (emphasis added). Applicants therefore are claiming the actual raw "image data" created by the "sensor." Applicants respectfully submit that Steinberg nowhere discloses transferring actual "image data" created by a "sensor," as claimed by Applicants. For at least the foregoing reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 10.

For at least the foregoing reasons, Applicants submit that claims 1-4 and 9-11 are not anticipated by the teachings of <u>Steinberg</u>. Because a rejection under 35 U.S.C. §102 requires that every claimed limitation be *identically* taught by a cited reference, and because the Examiner fails to cite <u>Steinberg</u> to identically teach the claimed invention, Applicants respectfully request reconsideration and allowance of claims 1-4 and 9-11.

On page 10 of the Final Office Action, the Examiner rejects claims 5-8 and 12-19 under 35 U.S.C. § 103(a) as being unpatentable over <u>Steinberg</u> in view of U.S. Patent No. 6,442,529 to Krishnan et al. (hereafter <u>Krishnan</u>). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a) which requires that three basic criteria be met, as set forth in M.P.E.P. §2142:

"First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations."

The initial burden is therefore on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Applicants respectfully traverse the Examiner's assertion that modification of the device of <u>Steinberg</u> according to the teachings of <u>Krishnan</u> would produce the claimed invention. Applicants submit that <u>Steinberg</u> in combination with <u>Krishnan</u> fail to teach a substantial number of the claimed elements of the present invention. Furthermore, Applicants also submit that

neither <u>Steinberg</u> nor <u>Krishnan</u> contain teachings for combining the cited references to produce the Applicants' claimed invention. The Applicants therefore respectfully submit that the obviousness rejections under 35 U.S.C §103 are improper.

(A). <u>Claims 5-8, 12, and 17-18</u>

With regard to the Examiner's rejection of independent claim 5,

Applicants submit that claim 5 recites limitations that are not taught or suggested either by the cited reference, or by the Examiner's citations thereto. For example, claim 5 explicitly recites "uploading image data from a digital camera solely to an exclusive and predetermined remote location" and "said digital camera being incapable of communicating with any external device other than said exclusive and remote location."

On page 12 of the Final Office Action, the Examiner explicitly concedes that Steinberg "fails to distinctly state that the digital camera is unable to exchange electronic information with any electronic devices except for the exclusive and predetermined location." Applicants concur. The Examiner then points to Krishnan to purportedly remedy these defects.

<u>Krishnan</u> teaches advertisers subsidizing Internet access through "miniportal devices" (see column 3, lines 38-45). However, <u>Krishnan</u> explicitly teaches variously communicating with a "validation server", an "advertisement server", a "content server", and a "statistics server" (see column 4, lines 7-37).

Applicants therefore submit that neither of the cited references teach "said digital camera being incapable of communicating with any external device other than said exclusive and remote location", as claimed by Applicants.

In addition, as discussed above in conjunction with independent claims 1 and 9, Applicants submit that neither of the cited references teach uploading actual "<u>image data</u>," as claimed by Applicants. Applicants further submit that the cited references also fail to teach bi-directional communications "<u>solely</u>" between a "digital camera" and "an exclusive and predetermined remote location," as claimed by Applicants. Applicants therefore herein incorporate, with reference to independent claim 5, the various arguments made above with respect to independent claims 1 and 9.

Regarding the Examiner's rejection of dependent claims 6-8, 12, and 17-18, for at least the reasons that these claims are dependent from an independent claim whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the independent claim, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 6-8, 12, and 17-18, so that these claims may issue in a timely manner.

For at least the foregoing reasons, the Applicants submit that claims 5-8, 12, and 17-18 are not unpatentable under 35 U.S.C. § 103 over <u>Steinberg</u> in view of <u>Krishnan</u>, and that the rejections under 35 U.S.C. § 103 are thus

improper. The Applicants therefore respectfully request reconsideration of the rejections of claims 5-8, 12, and 17-18 under 35 U.S.C. § 103.

(B) <u>Dependent Claim 13</u>

The Examiner cites <u>Krishnan</u> in support of the rejection of claim 13 which explicitly recites "said digital camera displaying said advertising data in an automatic manner, a device user of said digital being <u>unable to prevent</u> said displaying" (emphasis added). However, <u>Krishnan</u> explicitly states that "[u]sers who object to receiving advertising material . . . may <u>opt out</u> . . ." (see column 6, lines 65-66). <u>Krishnan</u> therefore teaches that users are able to prevent displaying of the advertising if they choose. For at least the foregoing reasons, Applicants respectfully request reconsideration of the rejection of claim 13.

(C) <u>Dependent Claim 14</u>

The Examiner cites <u>Krishnan</u> in support of the rejection of claim 14 which explicitly recites "a distributor of <u>said digital camera</u> administers and maintains said exclusive and predetermined remote location" (emphasis added). In contrast, <u>Krishnan</u> is limited to teaching a "portal provider 20" of "miniportals." Applicants submit that <u>Krishnan</u> nowhere discloses a "distributor of said <u>digital camera</u>," as claimed by Applicants. For at least the foregoing reasons, Applicants respectfully request reconsideration of the rejection of claim 14.

(D) <u>Dependent Claim 15</u>

With regard to the rejection of dependent claim 15, Applicants submit that neither of the cited references disclose or mention any sort of "combined download/upload request", as claimed by Applicants. The claimed "combined download/upload request" is described in detail in conjunction with the discussion FIG. 4 of Applicants' Specification. The Applicants therefore respectfully request reconsideration and withdrawal of the rejection of claim 15 under 35 U.S.C. § 103.

(E) <u>Dependent Claim 16</u>

With regard to the rejection of dependent claim 16, the Examiner states that "Krishnan also states that validation stamps are periodically sent" (emphasis added). In contrast, Applicants recite a "combined download/upload request occuring at predetermined regular intervals." Applicants submit that sending validation stamps "periodically" does not necessarily mean that the validations stamps are sent at "predetermined regular intervals," as claimed by Applicants. For example, sending validation stamps "periodically" could readily occur at intervals that were neither "predetermined" nor "regular." The Applicants therefore respectfully request reconsideration and withdrawal of the rejection of claim 16 under 35 U.S.C. § 103.

(F) <u>Dependent Claim 19</u>

With regard to the rejection of dependent claim 19, Applicants submit that neither of the cited references disclose or mention a protocol in which "downloading of said advertising data is triggered by said uploading image data," as claimed by Applicants. The foregoing claimed upload/download technique is described in Applicants' Specification at page 9, line1-3. The Applicants therefore respectfully request reconsideration and withdrawal of the rejection of claim 19 under 35 U.S.C. § 103.

For at least the foregoing reasons, the Applicants submit that claims 5-8 and 12-19 are not unpatentable under 35 U.S.C. § 103 over <u>Steinberg</u> in view of <u>Krishnan</u>, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 5-8 and 12-19 under 35 U.S.C. § 103.

SUMMARY

For all the foregoing reasons, it is earnestly and respectfully requested that the Board of Patent Appeals and Interferences reverse the rejections of claims 1-19, so that the present Application may be allowed and pass to issue in a timely manner.

Respectfully Submitted,

Manowitz et al.

(650) 358-4000

Date: 8/8/06

By

Gregory J. Koerner, Esq. Registration No. 38,519 Redwood Patent Law 1291 East Hillsdale Boulevard, Suite 205 Foster City, California 94404

(8) Claims Appendix

- A system for transmitting image data comprising:

 a remote storage device for receiving image data; and
 a digital camera configured to send the image data exclusively to the
 remote storage device and to receive advertising data exclusively
 from the remote storage device.
- 2. The system according to Claim 1 wherein the digital camera further comprises a sensor for forming the image data.
- 3. The system according to Claim 1 wherein the digital camera further comprises a local storage device for storing the image data and the advertising data from the remote storage device.
- 4. The system according to Claim 3 wherein the digital camera further comprises a display device for viewing the image data and the advertising data.
- 5. A method of communicating between a digital camera and a predetermined remote location comprising:
 - uploading image data from a digital camera solely to an exclusive and predetermined remote location;
 - downloading advertising data solely from the exclusive and predetermined remote location to the digital camera, said digital camera being incapable of communicating with any external device other than said exclusive and remote location; and displaying the advertising data on the digital camera.

- 6. The method according to Claim 5 further comprising an advertiser compensating a distributor based on the advertising data downloaded by the digital camera.
- 7. The method according to Claim 5 further comprising a distributor selling the digital camera to a user at a discount based on the advertising data downloaded by the digital camera.
- 8. The method according to Claim 5 wherein uploading the image data occurs only at the exclusive and predetermined remote location.
- 9. A digital camera comprising: a buffer for receiving image data and advertising data; an interface connected to the buffer configured to upload the image data from the digital camera to an exclusive and predetermined remote location and to download the advertising data from the exclusive and predetermined remote location to the digital camera; and a display connected to the buffer for viewing the advertising data.
- 10. The digital camera according to Claim 9 further comprising a sensor connected to the buffer for forming the image data.
- 11. The digital camera according to Claim 9 wherein the interface is configured to automatically connect with the exclusive and predetermined remote location for uploading the image data and downloading the advertisement data.

- 12. The method of claim 5 wherein said digital camera is unable to exchange electronic information with any electronic devices except for said exclusive and predetermined remote location.
- 13. The method of claim 5 wherein a distributor of said digital camera implements functional characteristics of said uploading, said downloading and said displaying, said remote location pushing said advertising data to said digital camera, said digital camera displaying said advertising data in an automatic manner, a device user of said digital being unable to prevent said displaying.
- 14. The method of claim 5 wherein a distributor of said digital camera administers and maintains said exclusive and predetermined remote location.
- 15. The method of claim 5 wherein a combined download/upload request triggers said uploading and said downloading.
- 16. The method of claim 5 wherein a combined download/upload request triggers said uploading and said downloading, said combined download/upload request occurring at predetermined regular intervals.
- 17. The method of claim 5 wherein one or more advertisers compensate a distributor of said digital camera for said downloading and said displaying of said advertising data, said distributor responsively providing said digital camera to a device user without charging any purchase price.

- 18. The method of claim 5 wherein a purchase price of said digital camera is reduced by a compensation amount provided from one or more advertisers to a distributor of said digital camera, said compensation amount being provided in exchange for said distributor implementing said digital camera to automatically perform said downloading and said displaying.
- 19. The method of claim 5 wherein said downloading of said advertising data is triggered by said uploading image data.

(9) Evidence Appendix: None.

(10) Related Procedings Appendix: None.



Filing Date: February 12, 2001	For Exchanging Concent		Atty / Secty Initials: GJK/mmk	Docket Due Date:	IN THE U.S. PATENT & TRADEMARK	STAMPED HEREON:	☐ Power of Attorney	PTO Form 1449 IDS (in duplicate)	Request for Continued Examination	☐ PCT Application: pgs. of	specification (w/ claims & abstract)	☐ PCT Demand:pages	☐ PCT Request:pages	☐ Provisional Application: pages	☐ Petition of Ext. of Time: months	公 Transmittal Letter (in duplicate)	Utility Application: pgs. of	specification (w/ claims & abstract)	C) Petition for:		
Serial No.: 09/782,067 Filing Date: February 12, 20	Title: System Method And Systems	Inventor(s) / Applicant(s): Neal Manowitz	Atty. Docket No.: 50P3840.01	9	THE FOLLOWING HAS BEEN RECEIVED IN THE U.S. PATENT & TRADEMARK	OFFICE ON THE DATE STAMPED HEREON:	☐ Amendment / Response: pgs.	☐ Assignment & Assignment Cover Sheet	☑ Certificate of Mailing	The Credit Card Form for: \$ 500.00	☐ CIP Application	□ Continuation Application	☐ Declaration & POA	☐ Divisional Application	☐ Drawings: # of sheets incl. figs.	0.:		☐ Information Disclosure Statement	☐ Issue Fee Transmittal	AOther: Appeal Brief (22 pages)	

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